

IN AND BEFORE THE OKLAHOMA STATE BOARD
OF MEDICAL LICENSURE AND SUPERVISION
STATE OF OKLAHOMA

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
Plaintiff,)
)
v.)
)
ROBERT MICHAEL WESTCOTT, M.D.,)
LICENSE NO. 18951)
)
Defendant.)

Case No. 95-09-1758

ORDER FOR REINSTATEMENT OF LICENSE
WITH TERMS OF PROBATION

This matter comes on for hearing before the Oklahoma State Board of Medical Licensure and Supervision June 19, 1998, at the Board's offices located at 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and rules of the Board.

Plaintiff, the State of Oklahoma, ex rel. the Oklahoma State Board of Medical Licensure and Supervision (the "Board"), appeared by and through its attorney, Susan Moebius Henderson, Assistant Attorney General for the State of Oklahoma. Defendant, Robert Michael Westcott appeared in person without an attorney, thereby waiving his right to legal representation before the Board.

Findings of Fact

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians and surgeons in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *et seq.*

2. On December 21, 1995, Defendant's license to practice medicine and surgery in the State of Oklahoma under Oklahoma license number 18951 was suspended by emergency order of the Board for unprofessional conduct involving personal substance abuse as defined by 59 Okla. Stat. §509(5) and (16) and OAC 435:10-7-4(3), (11), (17), (18), (40) and (42).

3. The emergency suspension was continued after a hearing by the Board *en banc* on January 26, 1996 and then again by agreement of the parties signed March 7, 1996. Defendant's suspension was to continue until the issues leading to suspension of his licensure could be heard by the Board *en banc*.

4. Defendant now seeks reinstatement of his medical license, no. 18951. Following reinstatement, Defendant anticipates starting a residency program in Tennessee.

5. Defendant has a history of personal substance abuse which began in approximately 1982.

6. Defendant suffered from advanced chemical dependency and depression around May 1, 1995 when he requested and received a leave of absence from the University of Oklahoma Health Science Center, Family Practice Residency.

7. Defendant received inpatient treatment at Rush Behavioral Health Center, Downers Grove, Illinois from approximately May to September 1995 and continued inpatient treatment thereafter at Springbrook Northwest, Newberg, Oregon. In June 1996, Defendant began receiving treatment from the Talbott-Marsh Recovery Campus in Atlanta, Georgia.

8. On May 9, 1995, Defendant answered the following question in the negative on his license renewal form:

Are you now using any drug or chemical substance including alcohol which has an adverse impact on your ability to practice medicine and surgery.

The very next day, May 10, 1995, Defendant was admitted as an inpatient to Rush Behavioral Health Center in Illinois.

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act") and its applicable regulations. The Board is authorized to enforce the Act as necessary to protect the public health, safety and welfare.

2. Defendant, Robert Michael Westcott, M.D., holder of Oklahoma License No. 18951, by reason of the above facts, is guilty of unprofessional conduct under the Act and the rules of Board as follows:

A. Habitual intemperance or the habitual use of habit-forming drugs in violation of 59 Okla. Stat. §509(5).

- B. The inability to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition in violation of 59 Okla. Stat. §509(16).
- C. The habitual or excessive use of any drug which impairs the ability to practice medicine with reasonable skill and safety to the patient in violation of OAC 435:10-7-4(3).
- D. Conduct likely to deceive, defraud or harm the public in violation of OAC 435:10-7-4(11).
- E. Being physically or mentally unable to practice medicine and surgery with reasonable skill and safety in violation of OAC 435:10-7-4(17).
- F. Practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery in violation of OAC 435:10-7-4(18).
- G. The inability to practice medicine and surgery with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition in violation of OAC 435:10-7-4(40).
- H. Failure to inform the Board of a state of physical or mental health of the licensee or of any other health professional which constitutes or which the licensee suspects constitutes a threat to the public in violation of OAC 435:10-7-4(42).

Order

IT IS THEREFORE ORDERED by the Oklahoma State Board of Medical Licensure and Supervision as follows:

1. The medical license of Defendant, Robert Michael Westcott., holding Oklahoma License No. 18951, is hereby REINSTATED, subject to the terms and conditions of this order.

2. As a requirement of reinstatement, Defendant will comply with the recommendations of and abide by the post-care contract from Talbott-Marsh Recovery Campus of Atlanta, Georgia, and will undertake all necessary or recommended subsequent treatment.

3. As an additional requirement of reinstatement, Defendant will affiliate with a physicians recovery or caduceus support group in every state in which he practices medicine and will ask those support groups to submit quarterly reports on his progress to the Board.

4. As an additional requirement of reinstatement, Defendant will notify the Board or its designee of any entry, or re-entry, into an inpatient rehabilitation, assessment, or evaluation program and shall provide to the Board or its designee written authorization for any and all records associated with said treatment, assessment or evaluation.

5. Defendant shall be placed upon PROBATION for a period of five (5) years, subject to the following terms and conditions during the period of probation:

- a. Defendant will not prescribe, administer, dispense or possess any drugs in Schedules III, IV, or V or any addictive drugs, except to hospitals, inpatients or emergency room patients. No controlled dangerous substances or addictive drugs will be prescribed, administered or dispensed to outpatients.
- b. Defendant will practice in a controlled environment approved by the Board or its designee. Additionally, Defendant's practice will be limited to that which has been approved by the Board or its designee.
- c. Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and

Supervision Act as interpreted by the Board. Any question of interpretation regarding the Act or this Order shall be submitted in writing to the Board, and no action based on the subject of the question will be taken by Defendant until clarification of interpretation is received by Defendant from the Board.

- d. Defendant will request all hospitals in which he practices or anticipates practicing to furnish to the Board a written statement regarding monitoring of his practice while performing services in or to that hospital.
- e. Defendant will furnish to each and every state in which he holds licensure or applies for licensure and to each and every hospital, clinic or other institution in which he holds or anticipates holding any form of staff privileges or employment a copy of this Order stipulating sanctions imposed by the Board.
- f. Defendant will not supervise allied health professionals.
- g. Defendant will submit for analysis biological fluid specimens, including but not limited to, blood and urine, upon request of the Board or its designee, and Defendant will pay the costs attendant thereto.
- h. Defendant will not prescribe, administer or dispense any medications for personal use.
- i. Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need. Defendant will have the affirmative duty to inform any and every doctor treating him of this Order prior to the commencement of, or continuation of presently ongoing, treatment.
- j. Defendant will have the affirmative duty not to ingest any other substance which will

cause a body fluid sample to test positive for prohibited substances.

- k. Defendant will comply with the recommendations of and abide by the post-care contract from Talbott-Marsh Recovery Campus of Atlanta, Georgia, and will undertake all necessary or recommended subsequent treatment.
- l. Defendant will affiliate with a physicians recovery or caduceus support group in every state in which he practices medicine and will ask those support groups to submit quarterly reports on his progress to the Board.
- m. Defendant will keep the Board informed of his current address.
- n. Defendant will keep current payment of all assessments made by the Board for costs of prosecution, investigation and monitoring of his case.
- o. Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.
- p. Defendant will execute releases of medical, counseling and psychiatric records for use by the Compliance Consultant or other agents of the Board and will authorize the Compliance Consultant or other agents of the Board to discuss Defendant's case with Defendant's treating physicians, counselors and/or other custodians of Defendant's records.
- q. Defendant will notify the Board or its designee of any entry, or re-entry, into an inpatient rehabilitation, assessment, or evaluation program and shall provide to the Board or its designee written authorization

for any and all records associated with said treatment, assessment or evaluation.

6. The probationary period is hereby TOLLED until Defendant returns to practice in the State of Oklahoma, or in any federal or Native American facility located within the borders of the State of Oklahoma. Except for the terms and conditions of probation set forth in paragraph 5 of this order, no other term, condition or requirement contained in this order shall be tolled or otherwise affected by the tolling of Defendant's probation but shall remain in full force and effect until modified or terminated by the Board for as long as Defendant holds a medical license in Oklahoma.

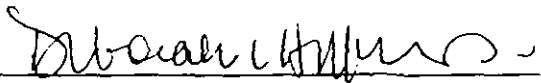
7. Should Defendant desire to establish active medical practice or consultation privileges within the State of Oklahoma, or in any federal or Native American facility located within the borders of the State of Oklahoma, Defendant shall first notify the Board in writing of his intentions and personally appear before the Board *en banc* for a review of these matters and his present state of medical training and competence prior to establishing practice.

8. Failure to meet any of the terms of this Order will be grounds for the Board to initiate additional proceedings to suspend or revoke Defendant's medical license, after additional notice and hearing as required by law.

9. The Board shall retain continuing jurisdiction over this Defendant wherever he may practice for as long as his Oklahoma license remains in effect.

10. Promptly upon receipt of an invoice for such charges, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs, and shall keep current all payments for monitoring her compliance with this agreement.

Dated this 19 day of June, 1998.



Deborah L. Huff, M.D., President
Oklahoma State Board of Medical
Licensure and Supervision

CERTIFICATE OF MAILING

This is to certify that on this 30th of June 1998, a true and correct copy of this order was mailed, postage prepaid to:

Robert Michael Westcott, M.D.
212 N. Crest Road #B
Chattanooga, TN 37304

Janet L. Owens
Janet L. Owens, Secretary